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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE ALONZO VIERA-TORREZ,

Defendant.

2:10-CR-476-KJD-GWF

**MOTION TO CONTINUE SENTENCING
HEARING AND GOVERNMENT'S
DEADLINE FOR FILING A RESPONSE
TO DEFENDANT'S SENTENCING
MEMORANDUM**

The United States of America, by and through DANIEL G. BOGDEN, United States Attorney, and PAMELA A. MARTIN, Assistant United States Attorney, hereby move this Court to continue the sentencing, currently set for August 31, 2011, at the hour of 9:00 a.m., for sixty (60) days, or to a date and time to be set by this Honorable Court.

This motion is entered into based on the following:

1. On August 25, 2011, Defendant filed a Sentencing Memorandum. Due to the arguments and objections set forth by the Defendant, the Government requires additional time to adequately prepare its response. Additionally, defense counsel may wish for additional time to file a reply to the Government's response. Although couched in the terms as a "sentencing memorandum" the defense clearly has filed objections to the PSR. The defense includes objecting to the prior conviction, criminal history category, as well as demanding that the Government prove up the prior conviction. Further, the defense although stating that they are not moving for a

1 departure or variance under 3553, proceeds to argue that this court should depart downward or
2 find a variance sua sponte. This appears to violate the plea agreement.

3 2. Government counsel spoke with defense counsel, Mark Bailus, Esq., and Mr.
4 Bailus indicated that he cannot agree to a continuance as his client wants to go forward with his
5 sentencing. Mr. Bailus also stressed that he was not moving for a downward departure or variance
6 and in no way was trying to violate the plea agreement.

7 3. The Government would request that the sentencing memorandum be stricken as
8 not filed timely because it is in fact objections to the PSR. In the alternative the Government
9 requests time to respond to the objections and allow the probation department to respond as well.

10 4. This is the Government's first motion for a continuance of the sentencing and
11 response deadline. The parties have stipulated to one prior continuance of the sentencing at the
12 request of the defendant..

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14 DATED this 26TH day of August, 2011.

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16 Respectfully Submitted,

17 DANIEL G. BOGDEN
18 United States Attorney

19 /S/ Pamela A. Martin

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21 PAMELA A. MARTIN
22 Assistant United States Attorney
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE ALONSO VIERA-TORREZ,

Defendant.

2:10-CR-476-KJD-GWF

ORDER

BASED upon good cause appearing,

IT IS HEREBY ORDERED that the sentencing hearing in the above-captioned matter currently scheduled for August 31, 2011, at the hour of 9:00 a.m., be vacated and continued to December 7, 2011, at the hour of 9 am.

DATED this ____ day of August, 2011.



UNITED STATES DISTRICT JUDGE